

(Counsel listed on following pages)

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

JOE LEWIS LUQUE AND HERMAN
RICHARDSON, Individually and On Behalf
of All Others Similarly Situated,

Plaintiffs,

v.

AT&T CORP., PACIFIC BELL
TELEPHONE CO. d/b/a AT&T
CALIFORNIA, AND AT&T
COMMUNICATIONS OF CALIFORNIA,
INC.,

Defendants.

No. 3:09CV5885 (CRB)(JCS)

**JOINT STIPULATION AND
[PROPOSED] ORDER DISMISSING
WITH PREJUDICE OPT-IN
PLAINTIFFS' FAIR LABOR
STANDARDS ACT CLAIMS**

STIP. TO DISMISS OPT-IN PLAINTIFFS
U.S.D.C., N.D. Cal., No. C-09-5885-CRB (JCS)

Counsel for Plaintiffs:

JANETTE WIPPER (Cal. State Bar No. 275264)
SANFORD WITTELS & HEISLER, LLP
555 Montgomery Street, Suite 1206
San Francisco, California 94111
Telephone: (415) 391-6900
Facsimile: (415) 391-6901
jwipper@swhlegal.com

STEVEN L. WITTELS (N.Y. State Bar No. 2004635)
SANFORD WITTELS & HEISLER, LLP
1350 Avenue of the Americas, 31st Floor
New York, New York 10022
Telephone: (646) 723-2947
Facsimile: (646) 723-2948
swittels@swhlegal.com

MICHAEL RAM (Cal. State Bar No. 104805)
KARL OLSON (Cal. State Bar No. 104760)
RAM & OLSON LLP
555 Montgomery Street, Suite 820
San Francisco, California 94111
Telephone: (415) 433-4949
Facsimile: (415) 433-7311
mram@ramolson.com
kolson@ramolson.com

EDMOND CLARK (Conn. State Bar No. 418915)
LAW OFFICE OF EDMOND CLARK
83 Scotland Avenue
Madison, Connecticut 06443
Telephone: (203) 245-4602
Facsimile: (203) 245-9734
Eclarkmadisonlaw@aol.com

Counsel for Defendants:

J. AL LATHAM, JR. (Cal. State Bar No. 071605)

PAUL HASTINGS LLP

515 South Flower Street, 25th Floor

Los Angeles, California 90071

Telephone: (213) 683-6000

Facsimile: (213) 627-0705

allatham@paulhastings.com

JEFFREY D. WOHL (Cal. State Bar No. 096838)

JEFFREY P. MICHALOWSKI (Cal. State Bar No. 248073)

PAUL HASTINGS LLP

55 Second Street, 24th Floor

San Francisco, California 94105-3441

Telephone: (415) 856-7000

Facsimile: (415) 856-7100

jeffwohl@paulhastings.com

jeffmichalowski@paulhastings.com

WILLIAM CORY BARKER (Georgia State Bar No. 037727)

PAUL HASTINGS LLP

600 Peachtree Street, N.E., 24th Floor

Atlanta, Georgia 30308

Telephone: (404) 815-2400

Facsimile: (404) 815-2424

corybarker@paulhastings.com

Plaintiffs Joe Lewis Luque and Herman Richardson and defendants Pacific Bell Telephone Company, AT&T Corp., and AT&T Communications of California, Inc., acting through their respective counsel of record, hereby stipulate as follows:

1. Pursuant to the Court's November 19, 2010 Order, on January 3, 2011 defendants provided plaintiffs with a list of the names and contact information of individuals who worked in the positions covered by the conditionally certified class during the alleged liability period. The individuals on the list were sent the Court approved Notice and Consent to Join form.

2. On August 12, 2011, defendants notified plaintiffs that forty one individuals who had opted-in to the lawsuit did not have timely Fair Labor Standards Act claims because, based on defendants' employment records, they had not opted into the case within three years, five months and fifteen days of the last date they worked in a position covered by the putative class.

3. Plaintiffs have undertaken efforts to verify the last dates of employment with all of the individuals and have been able to personally contact and confirm with thirty seven of the forty one individuals that dates reflected in defendants' employment records are accurate. Pursuant to Fed. R. Civ. P. 41(a), the parties stipulate and agree that the Fair Labor Standards Act claims of the following opt-in plaintiffs shall be dismissed with prejudice:

| FIRST NAME | LAST NAME | JOB TITLE | LAST DATE IN COVERED POSITION |
|------------|-----------|------------------------------------|-------------------------------|
| Barry | Bingham | Manager Network Services | 1/5/2007 |
| Michael | Bohanna | Manager Network Services | 7/15/2007 |
| Jules | Caldeira | Manager Network Services | 1/31/2007 |
| Michael | Camarena | Manager Construction & Engineering | 4/30/2007 |
| Irl | Cruz | Manager Construction & Engineering | 8/15/2007 |

| | | | |
|--------------------|-------------------|------------------------------------|-----------|
| Bruce | Dudley | Manager Network Services | 1/31/2007 |
| Michael | Earhart | Manager Network Services | 2/25/2006 |
| Ernest | Estacio | Manager Network Services | 4/30/2007 |
| Chris J. | Feliz | Manager Network Services | 5/30/2007 |
| Mark | Fitzgerald | Manager Network Services | 4/13/2007 |
| Joseph | Garcia | Manager Construction & Engineering | 7/15/2007 |
| David | Goldwater | Manager Network Services | 3/15/2007 |
| Robert | Hallett | Manager Network Services | 6/15/2007 |
| Robert | Hamilton | Manager Network Services | 3/19/2007 |
| John | Hazard | Manager Network Services | 9/14/2007 |
| Frank | Hill, Jr. | Manager Network Services | 1/26/2007 |
| David | Hull | Manager Network Services | 4/30/2007 |
| Carl | Johnson | Manager Network Services | 5/31/2007 |
| Thomas | Jones | Manager Construction & Engineering | 4/18/2007 |
| Timothy | Jones | Manager Construction & Engineering | 3/31/2007 |
| Cindy | Mallory | Manager Network Services | 6/30/2007 |
| Daniel | Martinez | Manager Network Services | 8/15/2007 |
| Lorraine A. | Martinez | Manager Network Services | 9/30/2007 |
| David E. | Miller | Manager Network Services | 6/29/2007 |

| | | | |
|-----------------|-----------------------------|--|------------|
| Glenn | Nishinaka | Manager Construction & Engineering | 7/31/2007 |
| Marvin | Okada | Manager Construction & Engineering | 2/28/2007 |
| Mario | Ossorio | Manager Network Services | 9/15/2007 |
| Daniel | Prinzing | Manager Network Services | 4/30/2007 |
| Martha | Ramos- Hernandez | Manager Network Services | 6/30/2007 |
| Harvey | Roberts | Manager Construction & Engineering | 3/30/2007 |
| Kathryn | Saldamando | Manager Network Services | 2/28/2007 |
| William | Schemen | Manager Network Services | 8/8/2007 |
| Newell | Sherrod | Manager Network Services | 7/30/2007 |
| Robby J. | Sisco | Manager Network Services | 3/2/2007 |
| William | Skinner | Manager Construction & Engineering | 4/15/2007 |
| Marvin | Spencer | Manager Network Services | 5/15/2007 |
| Tim | Struckmeier | Manager Network Services | 5/14/2007 |
| Larry | Thorne | Manager Network Services | 6/30/2007 |
| Michael | Tone | Manager Construction & Engineering | 12/15/2006 |
| Richard | Tuttle | Manager Construction & Engineering | 3/30/2007 |
| John | Vehar | Manager Network Services | 4/30/2007 |

4. The parties respectfully request, in the Proposed Order filed herewith, that the

1 Court enter an Order dismissing with prejudice the Fair Labor Standards Act claims of the opt-in
2 plaintiffs named in paragraph 3, immediately above.

3 5. Some or all of the opt-in plaintiffs named in paragraph 3 may have timely claims
4 under the California's Labor Code and Business and Professions Code and nothing in this
5 stipulation is intended to affect their rights or eligibility to participate as class members if
6 plaintiffs' California Labor Code and Business and Professions Code claims are certified under
7 Rule 23 of the Federal Rules of Civil Procedure.

8 6. Each party shall bear its own costs, attorneys' fees, and expenses related to this
9 Stipulation.

10 Dated: March 5, 2012

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12 JANETTE WIPPER
STEVEN L. WITTELS
SANFORD WITTELS & HEISLER, LLP

13
14 MICHAEL RAM
KARL OLSON
RAM & OLSON LLP

15
16 EDMOND CLARK
LAW OFFICE OF EDMOND CLARK

17 By: /s/ Janette Wipper
18 Janette Wipper
Attorneys for Plaintiffs
19 Joe Lewis Luque and Herman Richardson
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1 Dated: March 5, 2012

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3 J. AL LATHAM, JR.
4 JEFFREY D. WOHL
5 JEFFREY P. MICHALOWSKI
6 WILLIAM CORY BARKER
7 PAUL HASTINGS LLP

8 By: /s/ William C. Barker
9 William C. Barker
10 Attorneys for Defendants
11 AT&T Corp., Pacific Bell Telephone Company, and
12 AT&T Communications of California, Inc.
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[PROPOSED] ORDER

On the stipulation of the parties, IT IS ORDERED that the Fair Labor Standards Act claims of the following opt-in plaintiffs are dismissed with prejudice:

| FIRST NAME | LAST NAME |
|-------------------|------------------|
| Barry | Bingham |
| Michael | Bohanna |
| Jules | Caldeira |
| Michael | Camarena |
| Irl | Cruz |
| Bruce | Dudley |
| Michael | Earhart |
| Ernest | Estacio |
| Chris J. | Feliz |
| Mark | Fitzgerald |
| Joseph | Garcia |
| David | Goldwater |
| Robert | Hallet |
| Robert | Hamilton |
| John | Hazard |
| Frank | Hill, Jr. |
| David | Hull |
| Carl | Johnson |
| Thomas | Jones |
| Timothy | Jones |
| Cindy | Mallory |
| Daniel | Martinez |
| Lorraine A. | Martinez |
| David E. | Miller |
| Glenn | Nishinaka |
| Marvin | Okada |
| Mario | Ossorio |
| Daniel | Prinzing |
| Martha | Ramos-Hernandez |
| Harvey | Roberts |
| Kathryn | Saldamando |
| William | Schemen |
| Newell | Sherrod |
| Robby J. | Sisco |
| William | Skinner |

| FIRST NAME | LAST NAME |
|------------|-------------|
| Marvin | Spencer |
| Tim | Struckmeier |
| Larry | Thorne |
| Michael | Tone |
| Richard | Tuttle |
| John | Vehar |

Dated: March __, 2012.

Judge Charles R. Breyer
United States District Court
Northern District of California